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47699	7590	12/09/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET SUITE 3100 DALLAS, TX 75202-3789			WILLETT, STEPHAN F	
		ART UNIT	PAPER NUMBER	
		2141		

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/450,867
Filing Date: November 30, 1999
Appellant(s): BATE ET AL.

Timothy Bliss
For Appellant

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EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/17/04.

(1) *Real Party in Interest*

Examiner agrees with the statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

Examiner agrees with the statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

Examiner agrees with the statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

Examiner agrees with the appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

Examiner agrees with the summary of invention contained in the brief is correct.

(6) *Issues*

Examiner agrees with the appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Examiner disagrees with the appellant's grouping of the claims. The appellant states 5 claim groupings that do not stand or fall together. However, for example, the appellant states "claim 11 recites 'a plurality of computers, each having a memory and a processor". Claim 1 states "a distributed computing system" or in other words a computer network that clearly consists of "a plurality of computers, each having a memory and a processor". The above misplaced groupings are exemplary of the appellant's lack of understanding of the art and the art's inherent functionality. Similar arguments can be made regarding the applicant's broad and unusual computer terms in the other groupings, such as "deputizing" and "credentials" which are inherent parts involved in data transfer in a computer network. In addition, inherently the system in the O'Connor and Chang patents and the applicant's claims have these components and can perform this intended use, *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997). Thus, claims 1-38 stand or fall together.

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,178,510	O'Connor	1-2001
6,157,953	Chang	12-2000

(10) Grounds of Rejection***Claim Rejections - 35 USC □ 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of a "software principal" and "principal" is unclear. Thus, it is assumed for examination purposes that rights refer to rights of the principal. Also, "the principal is terminated" is unclear.

Claim Rejections - 35 USC □ 103

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-7, 10-18, 23-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor et al. with Patent Number 6,178,510 in view of Chang et al. with Patent Number 6,157,953.

2. Regarding claim(s) 1, 11, 15, 23, 29, 35, O'Connor teaches checking user authorization in a computer network and access levels. O'Connor teaches a software type agent as a PNI, firewall or gatekeeper, col. 7, lines 8-17 interspersed with and within a plurality of computers with links, col. 6, lines 36-37 and gatekeepers/agents associated with users/computers, col. 7, lines 18-25 that access a directory service of rights as "authorization information", "algorithm of formula" of a "requesting entity", not just a user, col. 8-9, lines 67-6. O'Connor teaches rights of a principle to a resource, col. 8, lines 3-5, or as "authorization information", "algorithm of formula" of a "requesting entity", not just a user, col. 8-9, lines 67-5, such as "gatekeepers", col. 7, line 11.

O'Connor teaches updating rights to access a resource, col. 8, lines 10-14, 50; as

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"changes", col. 10, lines 54-57. O'Connor teaches receiving a request from a software principle, col. 7, lines 65-67. O'Connor teaches retrieving rights, col. 8, lines 27-30. O'Connor teaches a first set of rights, col. 11, lines 18-21 that is acted upon by the host, not the user. O'Connor teaches second rights at a second location, col. 12, lines 8-10. O'Connor teaches enabling the principal to delegate rights to an entity as "the host acts on the user's instructions ... indicating what information the user wishes the host to retrieve", col. 11, lines 18-21, and col. 12, lines 54-56. O'Connor teaches identifying an access level for a principal, col. 9, lines 14-17 that does not require principal control such as "by performing software programs", col. 7, lines 24-25. O'Connor teaches a certificate or credential as "code indicative of which portions of the host the user [or software] may access", col. 9, lines 10-11 and this permitted access is done prior to allowing access, or thereafter, col. 10, lines 54-55 and taught in Chang as "before", col. 13, lines 31. O'Connor teaches the invention in the above claim(s) except for explicitly teaching updating of user or entity's rights. In that O'Connor operates to check requests to content servers, the artisan would have looked to the network access controlling arts for details of implementing user verifications. In that art, Chang, a related access controlling network system, teaches "a method of automating the process of registering new applications and services", col. 5, lines 39-41 in order to provide updated rights. Chang specifically teaches that "typically an administrator will choose all the service hosts that contain services that were recently modified or added", col. 10, lines 31-33. Further, Chang suggests "there can be many service hosts, each of which have several services available", col. 10, lines 28-29 which will result from implementing his rights

verification. The motivation to incorporate updated user's rights insures that various software alternatives are supported for added usability. Thus, it would have been obvious to one of ordinary skill in the art to incorporate updates as taught in Chang into the rights levels described in the O'Connor patent because O'Connor operates with security levels and Chang suggests that optimization can be obtained when capabilities are added. Therefore, by the above rational, the above claim(s) are rejected.

3. Regarding claims 2, O'Connor teaches a table of principles, col. 9, lines 1-2.
4. Regarding claims 3, O'Connor teaches a table of rights and even formulas, col. 9, lines 2-5.
5. Regarding claims 4, Chang teaches a table of access to a resource, col. 14, lines 18-20.
6. Regarding claims 5-6, 12-13, 16-17, 24-25, Chang teaches a resource manager to map access to a directory of rights, col. 12, lines 53-58 and O'Connor at col. 9, lines 60-62.
7. Regarding claims 7, 10, 14, 18, 38, Chang teaches updating of rights based on various criteria, col. 10, lines 19-23, and O'Connor teaches rights updates at scheduled times, col. 10, lines 54-58 and lifespan as "predetermined period of time", col. 12, line 23 and second requests based on further permissions as "more information that is currently required", col. 8, lines 6-8.
8. Regarding claims 26, 28, 37, O'Connor teaches equal or less level of rights or plurality of permissions or rights, col. 9, lines 7-13.
9. Regarding claims 27, 30-31, O'Connor teaches allocating authority for a limited

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lifespan, col. 10, lines 54-67 as the numerous conditions that would terminate the user's rights which would also terminate the second software's rights.

10. Regarding claims 32, O'Connor teaches determining if a deputy or software exists and creating or downloading software if it does not exist, col. 7, lines 56-60.

11. Regarding claims 33, the O'Connor and Chang patents disclose the method of the preceding claims. The O'Connor and Chang patents do not explicitly disclose a restriction such as a specific start time. However, Official Notice is taken MPEP 2144.03 (a)) that scheduling software access with start times is well known in the art to insure resource demand is managed. It would have been obvious to one of ordinary skill in the art at the time of the application's invention to assign a start time obtain the advantages of flexible computing. By the above rational, the claim is rejected.

12. Regarding claims 36, Change teaches a namespace as "names of files", col. 5, lines 24 with limited accessed as taught above.

Response to Brief

13. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

14. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

15. Applicant suggests "the principal is terminated' is clear and is supported by page 15, lines 24-26 of the specification", Paper filed 8/17/04, Page 6, lines 19-20. First, the

specification does not disclose "terminated", and does not begin to explain what the appellant means by this term, especially in this art area. Again, the appellant has characterized an inherent event in network computing in an unclear manner, but also the appellant's specification does not provide the requisite term and an entity that is not "present" does not mean that the entity has been terminated. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

16. Applicant suggests "there exists a distinction between a software principal and a person", Paper filed 8/17/04, Page 7, line 26. First, this is one basic reason the 112 rejection was made regarding "software principal" versus "principal". Clearly, user in these arts includes client and/or any subprocessing clients that are spun based on the initial client request. For example, a "requesting entity", col. 8, line 67 such as "gatekeepers", col. 7, line 11. However, it is clear based on this argument, the appellant does not appreciate all the software "entities" that are interacting and acting as agents based on the initial user request to satisfy the user's request. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. The descriptions in the references are not obfuscated by the numerous other suggested usages of said description in the reference. In addition, implicitly, impliedly and inferentially, various users/clients are taught depending on their roles during a certain time period or situation and language identical or verbatim is not required in an obvious rejection. Note that reasonable

"inferences", and "common sense" may be considered in formulating rejections for obviousness. Specifically, *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) states "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." Also, *In re Bozek*, 416 F.2d 738, 163 USPQ 545, 549 (CCPA 1969) states that obviousness may be concluded from "common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference". Additionally, see *In re Gauerke*, 24 CCPA 725, 86 F.2d 330, 31 USPQ 330, 333 (CCPA 1936), and *In re Libby*, 45 CCPA 944, 255 F.2d 412, 118 USPQ 94, 96 (CCPA 1958), and *In re Jacoby*, 309 F.2d 738, 125 USPQ 317, 319 (CCPA 1962), and *In re Wiggins*, 488 F.2d 538, 543, 1979 USPQ 421, 424 (CCPA 1973). Thus, Applicant's arguments can not be held as persuasive regarding patentability.

17. Applicant previously argued "deputizing the principal to enable the principal to delegate the rights to at least one software entity", Paper No. 10, Page 8, lines 18-19 is not taught. But the applicant argued "the host acts on the user's instructions", and, "it does not describe delegation of rights", Paper No. 14, Page 10, lines 15-16 which contradict. This argument was not raised with regard to claim 1 on appeal. Oddly, the argument was raised in regard to claims 11, 15, 23 and 29, however as discussed in disagreeing with the applicant's grouping of claims, delegating reads on these claims also. Thus, from claims 11, 15, 23 and 29, copying rights, empowering rights, giving rights and assigning rights, respectively, reads on delegating rights. O'Connor teaches

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enabling the principal to delegate rights or act based on those rights to an “entity”, col. 8, lines 18-26, and col. 11, lines 10-17, col. 12, lines 23-28, 46-48, 54-55 and at Chang, col. 6, lines 52-57. This limitation simply requires a user or a piece of software to authorize a second piece of software to utilize or act on the rights afforded to the user or the previous piece of software on behalf of the user and naturally/inherently the second software can only perform actions that are allowed based on the rights granted or delegated to the second or third or fourth piece of software or subsoftware since there are numerous pieces, i.e. JAVA, of software working together. The second piece of software is delegated rights automatically based on the first software’s rights or rights given to the second piece of software, col. 12, lines 24-25 of O’Connor. Also, in an effort to further prosecution the “software principle” can be a user. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

18. Applicant suggests “the Examiner completely failed to recognize the above limitations”, Paper filed 8/17/04, Page 8, lines 4-5. Initially I respond to the appellants argument that “requiring in-person identification (col. 8, lines 2-9)” teaches away from a directory service in O’Connor. O’Connor does not “require” in-person identification, as is taught by “to avoid requiring a user to return”, col. 8, lines 8-9. The rights granted to the user are delegated and passed to each piece of software required to satisfy the user’s request. There is not just one piece of software operating with the operating system (OS) software in a “distributed network”. Basically, as a request is passed to each piece of software in a computer network the access rights to the data is checked. An entity is not going to pass a request or data to another entity that does not have

authorization. Specifically, PNI, col. 7, line 8 or “deputization point” coupled to a directory service” or “appropriate authorization information”, col. 8, line 65 comprising access rights as “stored information “ or “formula”, col. 9, lines 2-4, and these are clearly coupled to one another since they are dependent on one another. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

19. Applicant suggests “the examiner conceded in the Final Office Action that O’Connor failed to teach updating rights”, Paper filed 8/17/04, Page 8, lines 11-12. However, it was stated “O’Connor teaches the invention in the above claim(s) except for explicitly teaching updating of user or entity’s rights”. Thus, a second reference was relied to more clearly teach the inherent, well known and obvious aspect of updating users rights that must be stored in cache or memory to be updated, otherwise a user or their agent/subprocess could never change their rights in the future. Basically, an “entities” rights are simply changed, i.e. updating a password, and these must and are inherently be “stored”, col. 9, lines 2 in cache or memory, otherwise if one’s rights were not stored they could not be determined in the future. Also, the second reference was cited to exemplify that access rights are delegated to the many software components involved in satisfying a user’s request. In addition, specifically, the appellant quoted Chang in teaching “services that were recently modified or added”, in other words “updated”. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

20. Applicant suggests O’Connor does not teach “without requiring intervention or control by the principle”, Paper filed 8/17/04, Page 8, lines 11-12. “[The] specification,

having described the whole, necessarily described the part remaining", *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977), see also *Ex parte Grasselli*, 231 USPQ 393 (Bd, App. 1983) and "negative limitations extended to define the invention in terms of what it was not, rather than pointing out the invention", MPEP 2172.05(I). A negative type limitation, that implicitly teaches other related parts remaining, to avoid obvious elements of a reference does not exude novelty of the whole. Obviously, if the principle has delegated their rights, then further "intervention" by the principle is not required. Also, the principle's intervention was not required to access the rights in the first place, thus further intervention by the principle would not be required. Gatekeeper functions do not require principal control such as "by performing software programs", col. 7, lines 24-25. Lastly, after reviewing the specification, this claim limitation is not disclosed. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

21. Applicant suggests O'Connor does not teach certificates and credentials, Paper filed 8/17/04, Page 9-12. Certificates and credentials are broad names for security type information commonly required in networks, but these names are not commonly used with computer networks. The Appellant's reliance on gatekeeper is misplaced since col. 9, lines 8-11 in O'Connor were cited to exemplify certificates and credentials as "code indicate of which portions of the host the user may access". However, if verbatim verbiage is desired one only need review Chang at col. 12, lines 8-10. Also, note Change discloses the "passing" of information throughout the reference between software entities based on proper "authorizations". Thus, Applicant's arguments can not

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be held as persuasive regarding patentability.

22. Finally, Applicant suggests "the Examiner failed to present particular findings", Paper filed 8/17/04, Page 14, line 11 to combine. However, I stated "the motivation to incorporate updated user's rights insures that various software alternatives are supported for added usability. Thus, it would have been obvious to one of ordinary skill in the art to incorporate updates as taught in Chang into the rights levels described in the O'Connor patent because O'Connor operates with security levels and Chang suggests that optimization can be obtained when capabilities are added". Clearly, due to the similarities in these references cited above there is ample reason to combine the teachings of these two references, and they were not combined "to defeat patentability". Thus, Applicant's arguments can not be held as persuasive regarding patentability.

5. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

sfw

December 3, 2004



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